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Letter dated 9 May 2012 from the Secretary-General addressed to the President of the Security Council

Pursuant to Security Council resolution 1031 (1995), I have the honour to transmit the forty-first report on the implementation of the Peace Agreement on Bosnia and Herzegovina, covering the period from 16 October 2011 to 20 April 2012, which I received from the High Representative for Bosnia and Herzegovina (see annex).

I should be grateful if you would bring the report to the attention of the members of the Security Council.

(*Signed*) **BAN** Ki-moon

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Annex

Letter dated 4 May 2012 from the High Representative for Bosnia and Herzegovina addressed to the Secretary-General

Pursuant to Security Council resolution 1031 (1995), in which the Council requested the Secretary-General to submit to it reports from the High Representative in accordance with annex 10 to the General Framework Agreement for Peace in Bosnia and Herzegovina and the Conclusions of the London Peace Implementation Conference of 8 and 9 December 1995, I herewith present to you the forty-first report of the High Representative (see enclosure). I would ask for this report to be distributed to the members of the Security Council for their consideration.

This is my seventh report to the Secretary-General since assuming the post of High Representative for Bosnia and Herzegovina on 26 March 2009. The present report covers the period from 16 October 2011 to 20 April 2012.

Should you or any Council member require any information beyond what is provided in the enclosed report or have any questions regarding its contents, I should be pleased to provide you with it.

(*Signed*) Valentin **Inzko**

Enclosure

Forty-first report of the High Representative for Bosnia and Herzegovina

16 October 2011-20 April 2012

Summary

This report covers the period from 16 October 2011 to 20 April 2012. The reporting period has been characterized by a long overdue return to political dialogue between local political leaders that has opened the way for several positive developments.

Since I turned over my duties as European Union Special Representative to Peter Sørensen in September 2011, our Office have been coordinating well, complementing each other and seeking synergies where possible. I am now focusing my energies solely on my mandate under annex 10 to the General Framework Agreement for Peace and relevant Security Council resolutions. The Office of the High Representative fully supports the efforts of the European Union to help Bosnia and Herzegovina move along the path towards closer integration with the European Union.

April marked the twentieth anniversary of international recognition of Bosnia and Herzegovina and the start of the siege of Sarajevo, followed in May by Bosnia and Herzegovina's unanimous admission to the United Nations General Assembly. These anniversaries have been an occasion for reflection on how far Bosnia and Herzegovina has come over the past 20 years and what remains to be done to ensure prosperity and lasting peace in this part of Europe.

Bosnia and Herzegovina ended 2011, as I hope it will end 2012, with politicians engaging in political dialogue and reaching agreements necessary for progress to be made. On 28 December, the leaders of HDZ 1990, HDZ Bosnia and Herzegovina, SDA, SDP, SDS and SNSD reached a broad political agreement that included forming the Council of Ministers of Bosnia and Herzegovina, after nearly 15 months of stalemate following the October 2010 elections. The 28 December agreement included a commitment to adopt a budget for 2011 and two key European Union-related pieces of legislation — the State Aid Law and the Census Law.

The Bosnia and Herzegovina Council of Ministers was appointed by the Bosnia and Herzegovina House of Representatives on 10 February. Further positive news followed on 9 March, when the leaders of the six political parties in the State-level governing coalition signed an agreement on principles to be used to resolve the issues of ownership and use of defence and State property. The implementation of the agreement on defence property would open the way for the full participation of Bosnia and Herzegovina in the Membership Action Plan of the North Atlantic Treaty Organization (NATO), a step I have always supported strongly. The Council of Ministers endorsed this agreement on 21 March and tasked various Government ministries and agencies to initiate the follow-up actions necessary to facilitate the agreement.

Although none of the outstanding items among the five objectives and two conditions necessary for the closure of the Office of the High Representative was fulfilled during this reporting period, there are some encouraging signs of progress. The 9 March agreement on defence and State property opens the door potentially for an acceptable and sustainable resolution of the issue of apportionment of property between the State and other levels of government as well as an acceptable and sustainable resolution of defence property — two of the five objectives and two conditions established by the Steering Board of the Peace Implementation Council for the closure of the Office. In addition, the Steering Board is currently discussing the future of supervision of Brcko District, another of the five objectives.

Unfortunately, in parallel with the positive dynamic of movement towards Euro-Atlantic integration, there also continues to be a dynamic of nationalist politics and a readiness by some to challenge the Peace Agreement and, in particular, the sovereignty and territorial integrity of the country.

On the economic front, the country is faced with a deteriorating fiscal position, poor growth prospects, high unemployment and accompanying social problems. Citing the economic and political conditions in Bosnia and Herzegovina, the Moody's and Standard & Poor's rating agencies have downgraded the country's already poor credit rating to B3 and B, respectively. Of particular concern is that State-level institutions in Bosnia and Herzegovina, unlike other levels of government, have been on temporary financing for over 16 months. At the time of writing, a 2012 State-level budget has yet to be adopted.

Through their continued presence, the European Union and NATO military missions in Bosnia and Herzegovina have both continued to reassure citizens that the country remains safe and secure despite the difficult political situation.

I. Introduction

1. This is my seventh report to the Secretary-General since assuming the post of High Representative for Bosnia and Herzegovina. It provides a narrative description of progress made towards attaining the goals outlined in previous reports, registers factual developments, logs relevant citations relating to the reporting period and provides my assessment of the implementation of key areas falling under my mandate, including the objectives and conditions which must be met before the Office of the High Representative can close. I have focused my efforts on facilitating progress in these areas, in line with my primary responsibility to uphold the civilian aspects of the General Framework Agreement for Peace, while also encouraging progress on the five objectives and two conditions for the closure of the Office and working to preserve reforms undertaken to implement the Agreement.

II. Political update

General political environment

2. The reporting period began with continued stagnation in the autumn and early winter. However, this was followed by a period of positive developments starting at the end of 2011, including a number of significant agreements by the leaders of six political parties. The new year brought welcome news on many fronts, including the formation of a State-level Government, the adoption of the 2011 budget, progress on the global fiscal framework, the adoption of two key European Union-related laws (the State Aid Law and the Census Law) and an agreement to unblock the State-level electricity transmission company — Elektroprenos Bosnia and Herzegovina (Transco). On 9 March, the six party leaders comprising the State-level ruling coalition also reached what may be a breakthrough agreement on resolving defence and State property, two of the remaining outstanding objectives established by the Peace Implementation Council Steering Board. Taken together, these developments represent important and welcome progress. It has been particularly encouraging that these steps were achieved through compromise and agreement among political leaders from both entities and from the three constituent peoples.

3. The positive developments have in general overshadowed a number of continuing threats to the General Framework Agreement for Peace during the reporting period. These have included efforts to question the territorial integrity of the country and attempts to roll back past reforms related to the implementation of the Agreement.

4. In the Federation of Bosnia and Herzegovina, the two leading Croat parties continue to question the legality and legitimacy of the incumbent Federation government, demanding that it be reshuffled to include them, as representatives with the support of the majority Croats. That said, calls for a Croat entity or federal unit with a Croat majority have diminished during the reporting period. The two HDZ parties, SDP and SDA, are working together in the Herzegovina-Neretva (Mostar) and Central Bosnia (Travnik) Cantons as well as at the Bosnia and Herzegovina State level and this may lead to an improvement in relations within the Federation of Bosnia and Herzegovina. Canton 10 (Livno) is now the only authority not to have formed a new government following the October 2010 elections.

Decisions of the High Representative during the reporting period

5. During the reporting period, I issued three decisions: the first was to lift an earlier High Representative ban on an individual removed in July 2005 that prevented him from being a candidate for elections or from holding certain executive offices; the second and third decisions repealed an earlier High Representative decision of 10 July 2007 to seize travel documents of certain individuals in relation to investigations concerning genocide in and around Srebrenica.

Five objectives and two conditions for the closure of the Office of the High Representative

Progress on objectives

6. I am pleased to note that the Bosnia and Herzegovina authorities took important steps towards meeting two of the objectives for the closure of the Office of the High Representative during the reporting period. On 9 March, the leaders of the six political parties in the State-level governing coalition — HDZ 1990, HDZ Bosnia and Herzegovina, SDA, SDP, SDS and SNSD — signed a document entitled "Agreed Principles of Distribution of Property" that outlines a framework for resolving the issues of defence and State property. Implementation requires the Bosnia and Herzegovina Council of Ministers, the Bosnia and Herzegovina Parliamentary Assembly and the entity governments to adopt numerous legal acts, including separate parliamentary decisions and separate intergovernmental agreements on defence and State property. Although the Council of Ministers, the Ministry of Defence and the Bosnia and Herzegovina Commission for State Property have all taken numerous preparatory steps, at the time of writing, none of the legal acts foreseen in the 9 March 2012 agreement had been adopted.

7. The Peace Implementation Council Steering Board has also extensively discussed the possibility of terminating the supervision of Brcko District. Completion of the Brcko Final Award is another one of the five objectives and two conditions required for the closure of the Office of the High Representative.

Defence property

8. As a reminder, on numerous occasions over the past years, the Peace Implementation Council Steering Board has urged the Bosnia and Herzegovina authorities to sign an intergovernmental agreement on defence property, in line with the Bosnia and Herzegovina Law on Defence, by which the State would own the property required for future defence purposes. In the same vein, the Secretary-General of NATO specified in his April 2010 letter to the Bosnia and Herzegovina Presidency that NATO would allow Bosnia and Herzegovina to start its Membership Action Plan "only when all immovable defence properties identified as necessary for future defence purposes have been officially registered as the State property of Bosnia and Herzegovina, for use by the Bosnia and Herzegovina Ministry of Defence".

9. On 21 March, the Bosnia and Herzegovina Council of Ministers endorsed the principles laid out in the 9 March political agreement, assigned the Ministry of Defence to carry out all preparatory activities necessary to implement the principles regarding defence property and tasked the State Property Commission to carry out

all activities regarding other State property. The work assigned to the Ministry of Defence advanced well with regard to prospective defence property, with the Ministry relying in large measure on the efforts of NATO headquarters in Sarajevo in the past few years. However, the inclusion of non-prospective defence property within the broader framework of defence property in the 9 March agreement significantly expanded the scope of documentation and preparatory activities required to resolve defence property issues. In a related development, on 18 April, the Bosnia and Herzegovina Presidency adopted a revised list of 63 prospective immovable defence properties, thus defining the properties whose registration was required in order to fulfil the condition for the NATO Membership Action Plan.

10. According to the terms of the 9 March political agreement, it is foreseen that the Bosnia and Herzegovina Parliamentary Assembly would adopt a decision on defence property within 60 days of 9 March on the basis of an intergovernmental agreement between the Bosnia and Herzegovina Council of Ministers and the entity governments. Under the agreed principles, all prospective and non-prospective defence property that is either currently used by State institutions, or was declared necessary for State-level functions within 60 days by the Council, will be registered as owned by Bosnia and Herzegovina. All other defence property is to be registered at other levels of government, depending on the type of property and where it is situated.

State property

11. With regard to State property, the agreed principles of the 9 March agreement foresee that the Bosnia and Herzegovina Parliamentary Assembly will adopt a decision on the basis of an agreement between the Bosnia and Herzegovina Council of Ministers and the entity governments within one year. Under the terms of the political agreement, the Council is expected to complete an inventory of State property within 60 days of the 9 March agreement and then to adopt a decision 60 days thereafter, stating which additional assets are required for use by the State-level institutions.

12. As noted in previous reports, on 5 January 2011, I suspended the application of the Law on the Status of State Property Situated in the Territory of Republika Srpska and under the Disposal Ban (Republika Srpska State Property Law), pending a review of its constitutionality before the Bosnia and Herzegovina Constitutional Court. My order also prohibited any further disposals of State property situated in Republika Srpska until the Court's decision enters into force. On 30 November 2011, at a public hearing the Constitutional Court received expert testimony and positions of the parties regarding the Republika Srpska State Property Law. However, the Court has yet to decide on the merits of the application. It remains unclear what action, if any, the Court may take regarding the pending challenge, should the 9 March agreement be fully implemented.

13. During the reporting period, the Bosnia and Herzegovina State Property Commission met twice. The work of the Commission focused mainly on requests for exemptions from the State property disposal ban, none of which was granted. On 27 March, the Commission renewed its earlier request to me to amend my order of 5 January 2011 in a manner that would reauthorize the Commission to grant exemptions to the ban on disposals of State property situated in Republika Srpska. During the sessions convened in April, the Commission also discussed the activities

necessary to implement the 9 March agreement on the distribution of property, including the preparation of a State property inventory, the drafting of a decision of the Bosnia and Herzegovina Parliamentary Assembly on State property and the drafting of an agreement on the distribution of State property between the Bosnia and Herzegovina Council of Ministers and the entity governments. To facilitate the implementation of the 9 March agreement, I am ready to amend my order suspending the Republika Srpska State Property Law so as to make it possible for the relevant legal acts foreseen in the said agreement to enter into force.

14. In a related matter, on 3 February, the Law on Survey and Cadastre entered into force in Republika Srpska, superseding the controversial Law on Cadastre of Republika Srpska. In August 2011 Bosnia and Herzegovina Presidency member Bakir Izetbegovic had initiated a challenge to the constitutionality of the former Law on Cadastre of Republika Srpska before the Bosnia and Herzegovina Constitutional Court. Given the entry into force of the Law on Survey and Cadastre, on 30 March 2012, the Constitutional Court decided to terminate proceedings on President Izetbegovic's challenge.

Brcko District

15. Brcko District continued to be a high priority for the Peace and Implementation Council Steering Board during the reporting period. At its session, held on 12 and 13 December, the Steering Board "welcomed as a positive step the publication by Republika Srpska authorities on 1 December of a map that reflects that the Inter-Entity Boundary Line does not exist in Brcko District, in accordance with the Brcko Final Award. Taking this into account, the Peace and Implementation Council Steering Board will work expeditiously with a view to taking a decision on ending Brcko supervision by the next meeting of the Peace and Implementation Council, while considering ways to maintain the Arbitral Tribunal established under annex 2 of the General Framework Agreement for Peace to address any disputes involving the important and binding obligations arising from the Brcko Final Award."[1] On 3 April, the Steering Board held a series of consultations with the State-level, entity and Brcko District authorities on the Brcko District and the possibility of terminating supervision of Brcko.

Challenges to the General Framework Agreement for Peace and rollback of reform

16. The reporting period has seen a continuation of nationalistic statements challenging the Peace Agreement, including the sovereignty and territorial integrity of Bosnia and Herzegovina. The most senior officials of Republika Srpska have made frequent statements referencing the possible dissolution of the State, as well as calling into question its future.[2] Senior Republika Srpska officials have also

[1] Turkey expressed reservations on this paragraph in a footnote of the Peace and Implementation Council Steering Board communiqué, "[t]aking into consideration the fragile political atmosphere in Bosnia and Herzegovina and the ambiguity about the binding nature of this map".

[2] "I believe it is a historical inevitability. One day Bosnia and Herzegovina will dissolve into its building blocks. Mass international intervention did not succeed in securing Bosnia and Herzegovina as a State as some believe." Republika Srpska President, interview with Belgrade-based station B92 on 9 April 2012. See also footnotes 3-6 below.

publicly acknowledged deliberate obstruction of the Dayton institutions,[3] warned that the Republika Srpska will never give up on the right to express itself on various issues through a referendum[4] and asserted that it is up to the Republika Srpska to decide whether Bosnia and Herzegovina exists or not.[5]

17. I have been equally concerned by continued Republika Srpska assertions — at variance with the Bosnia and Herzegovina Constitution — that the entities are in fact states. The Republika Srpska President on numerous occasions referred incorrectly to Bosnia and Herzegovina as a "state union" and to the Republika Srpska as a state of one constituent people.[6]

18. Such problematic statements, which have continued to be made since the end of the reporting period, call into question the commitment of the relevant senior officials to the constitutional order of Bosnia and Herzegovina, including, in particular, the sovereignty and territorial integrity of Bosnia and Herzegovina and, by extension, to the Peace Agreement.

19. In addition to such statements, legal and political actions from Republika Srpska challenging State-level institutions, competencies and laws, as well as the authority of the High Representatives under the General Framework Agreement for Peace and relevant resolutions of the Security Council have continued.[7]

20. Actions undermining State-level institutions include the conclusions adopted by the Republika Srpska National Assembly on 25 January 2012 that request the representatives from the Republika Srpska in the Bosnia and Herzegovina Parliamentary Assembly to propose laws repealing the laws on the Court and the Prosecutor's Office of Bosnia and Herzegovina in order to abolish these State-level judicial institutions. This was followed by an initiative within the Parliamentary Assembly to abolish these institutions. Although taken within the framework of the State-level institutions, this initiative represents an example of the Republika Srpska's ongoing challenges to the State-level judiciary and the State's competencies in the judicial field, as provided for under annex 4 to the Peace Agreement and as confirmed by the Constitutional Court.

21. There were also other examples of efforts made by Republika Srpska to weaken State institutions that were established in line with the Peace Agreement.

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[3] "... Our goal was, and still is, to demonstrate that Bosnia and Herzegovina cannot function and that the Council of Ministers has to be appointed, not elected ..." Republika Srpska President interview with Biljeljina-based BNTV on 12 April 2012.

[4] "A referendum is something we would never give up! We will very carefully select a moment to state our opinion on the issue of importance for us." "Bosnia and Herzegovina is an unmanageable country unless it finds internal agreement". Republika Srpska President interview with Belgrade-based station B92, 2 November 2011.

[5] "Republika Srpska holds the reins of Bosnia and Herzegovina and it depends on us whether Bosnia and Herzegovina would exist or not." Republika Srpska President interview with Banja Luka-based Radio Big, 5 November 2011.

[6] "... the Serb people must believe ... in a strong Serb State that is called Serbia and in a strong Serb state which is called Republika Srpska. Why should we avoid saying that we are a state, we govern independently in many areas and in what way are we less of a state than any other member of the European Union." Republika Srpska President interview with Nezavisne Novine, 6 April 2012.

[7] In addition to challenging the role and mandate of the High Representative, Republika Srpska authorities have announced that they will sue my predecessors and me personally for alleged violations of the Peace Agreement.

Two pieces of legislation adopted by the Republika Srpska National Assembly effectively take over or duplicate the competencies of State-level institutions. The Law on Courts, adopted by Republika Srpska in December 2011, seeks to give certain competences exercised by the High Judicial and Prosecutorial Council of Bosnia and Herzegovina to Republika Srpska. In spite of reactions by the Bosniak Caucus in the Republika Srpska Council of Peoples and the international community, no adjustment has yet been made to the law. The Election Law, adopted by Republika Srpska in November 2011, attempts to erode the competences of the Bosnia and Herzegovina Central Election Commission.

22. During the reporting period, the Republika Srpska authorities have also attempted to repay the Republika Srpska portion of the State's foreign debt directly to international creditors, bypassing the authorized State-level institutions.

23. I am also concerned about a number of developments in the Federation involving apparent attempts to roll back past reforms, including banking reform, and ongoing efforts to politicize the Federation police. A decision by the executive to cut judicial finances in Sarajevo Canton, in contradiction with the Constitution and the law, was later reversed.

State-level institutions of Bosnia and Herzegovina

Bosnia and Herzegovina Presidency

24. The Bosnia and Herzegovina Presidency continued to meet regularly during the reporting period. Although relations between members of the Presidency improved, the protracted Government formation crisis reflected on the work of the Presidency, including the tremendous delay in adopting the 2011 budget, which came only after the end of 2011.

25. Pursuant to the six party leaders' Government formation agreement of 29 December 2011, on 5 January 2012, the Presidency unanimously appointed Vjekoslav Bevanda (HDZ Bosnia and Herzegovina) as Chair of the Bosnia and Herzegovina Council of Ministers.

26. The Bosnia and Herzegovina Presidency decided to accept an arrangement between the Bosnia and Herzegovina Council of Ministers and the United States Department of State on demolition of light weapons and ammunition. It also consented to having the 26-person military police unit of Bosnia and Herzegovina serve with the United States Army National Guard of the state of Maryland in the International Security Assistance Force mission in Afghanistan. In addition, it approved participation of the Armed Forces of Bosnia and Herzegovina in the United Nations Organization Mission in the Democratic Republic of the Congo for 2012.

27. The Bosnia and Herzegovina Presidency took steps towards Bosnia and Herzegovina meeting its long-standing international obligation towards the Council of Europe on 22 February, when it adopted a list of candidates for election as the Bosnia and Herzegovina judge in the European Court of Human Rights in Strasbourg.

28. Regional cooperation continued to play an important role. Bosniak Presidency member Bakir Izetbegovic met with President Ivo Josipovic of Croatia in December 2011. A trilateral meeting among the Bosnia and Herzegovina Presidency,

Mr. Josipovic and President Boris Tadic of Serbia took place in Sarajevo on 3 February and focused on the fight against organized crime, possibilities for joint application for European Union funds in the fields of trans-border cooperation, joint representations in consular matters in third countries, and rule of law. A number of other important visits took place, such as the meeting of Croat Presidency member Zeljko Komsic with United States Secretary of State Hillary Clinton in Washington, D.C., in December 2011 and Mr. Izetbegovic's visit to Brussels on 22 March.

29. Presidency member Bakir Izetbegovic assumed the rotating eight-month chairmanship of the Bosnia and Herzegovina Presidency from Zeljko Komsic on 10 March.

Bosnia and Herzegovina Parliamentary Assembly

30. During the reporting period, Bosnia and Herzegovina made welcome progress on two long-overdue European Union requirements. On 3 February, the Law on Population Census, Households and Apartments in Bosnia and Herzegovina in 2013, and the Law on State Aid were finally adopted by the Bosnia and Herzegovina Parliamentary Assembly. However, despite holding regular sessions, legislative output in the Assembly remained low and the parliamentary discourse was frequently unconstructive. At the time of writing, the Assembly adopted a total of three new laws (Budget, Census and State Aid) during the 20 months that have passed since the October 2010 general elections.

31. The House of Representatives confirmed the appointment of Vjekoslav Bevanda (HDZ BiH) as Chair of the Bosnia and Herzegovina Council of Ministers on 12 January, while the Ministers and Deputy Ministers of the Council were confirmed on 10 February.[8]

Constitutional reform

32. The Bosnia and Herzegovina Parliamentary Assembly established the Parliamentary Interim Joint Committee for Implementation of the European Court of Human Rights ruling in the *Sejdic-Finci vs. Bosnia and Herzegovina* case on 10 October 2011. The Committee has been tasked to produce amendments to the Bosnia and Herzegovina Constitution and the Bosnia and Herzegovina Election Law that would meet the requirements of the Court ruling. Although the Committee has met regularly since October, with a number of extensions provided by the Assembly, it has so far not produced concrete results. The Assembly extended the Committee's mandate on 15 March, requiring it to report to Parliament every 60 days.

33. The Council of Europe Committee on the Honouring of Obligations and Commitments by Member States met on 13 March and discussed the report on the honouring of obligations and commitments of Bosnia and Herzegovina. The report concluded that the performance of Bosnia and Herzegovina since January 2012 was sufficiently credible that the April session of the Council of Europe Parliamentary Assembly need not conduct an urgent debate on Bosnia and Herzegovina. At the

[8] The appointment of the Council of Ministers came some 15 months after the October 2010 general elections, during which time I focused the public diplomacy efforts of my Office on encouraging the six parties with the largest support in the elections to reach a domestic agreement that would also respect previous agreements on having a Croat as the next Chair of the Council.

same time, the Council of Europe stated that full implementation of the ruling is required.[9]

34. The Croatian Parliament adopted a declaration on 28 October expressing solidarity with Croats in Bosnia and Herzegovina, and urging constitutional reform in Bosnia and Herzegovina. The declaration criticized the allegedly selective implementation of the Dayton Peace Agreement and the failure to implement annex 7 thereto (refugee return). It described a new Constitution of Bosnia and Herzegovina as a "necessity and precondition for both Bosnia and Herzegovina's democratic development and its survival as a country of three equal peoples and all its citizens, as well as a condition for the country's Euro-Atlantic integration".

Working Group on Electoral Legislation

35. The Interdepartmental Working Group for Preparation of Amendments to the Electoral Law, Law on Conflict of Interest and Law on Financing Political Parties[10] started work on 26 October 2011, with the task of preparing changes to these laws before the formal announcement of the next municipal elections expected in May 2012. The Working Group held 15 meetings during the reporting period and agreed on a set of amendments that it would submit to the Bosnia and Herzegovina Parliamentary Assembly for adoption. These include amendments to ensure more transparency during the electoral process, in particular in regard to campaign financing and appointments of polling station committees. The Working Group also proposed changes to the Law on Conflict of Interest that would soften sanctions prescribed by the existing law, while changes to the Law on Financing Political Parties would introduce new and less restrictive regulations concerning the financing of political parties.

Bosnia and Herzegovina Council of Ministers

36. The caretaker Bosnia and Herzegovina Council of Ministers held five sessions during the reporting period before the new Council of Ministers was formed on 10 February. During this period, the caretaker Council of Ministers adopted three draft laws, approved several changes and amendments to existing legislation, made several appointments and adopted other working documents. Following its 10 February confirmation, the new Council of Ministers held five sessions. So far the new Council has adopted amendments to four existing laws as well as dozens of proposals of bilateral agreements, decisions and other working documents. In addition, on 18 April, the Council determined the amount and adopted the Draft Law on Budget of Institutions of Bosnia and Herzegovina and International Obligations of Bosnia and Herzegovina for 2012 and submitted it to the Bosnia and Herzegovina Presidency.[11]

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[9] See Council of Europe resolution 1855, available from http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta12/ERES1855.htm.

[10] The Working Group is comprised of members of both houses of the Bosnia and Herzegovina Parliamentary Assembly, the Council of Ministers and the Central Electoral Commission.

[11] The draft foresees a total budget of KM1,394,928,000, of which KM950 million will go towards financing State-level institutions and KM444,928,000 towards servicing foreign debt. Two SDA Ministers voted against the budget in keeping with their party's position that the proposed budget is insufficient to provide for the functionality of the State. The draft was submitted to the Bosnia and Herzegovina Presidency, which, according to procedure, then submits it to the Bosnia and Herzegovina Parliamentary Assembly for final consideration.

Republika Srpska

37. The executive and legislative authorities of Republika Srpska continued to meet regularly during the reporting period and the Republika Srpska National Assembly adopted 20 new pieces of legislation. As a result of difficult economic conditions, the Republika Srpska government attempted to reform the entity pension and disability fund, as well as to reduce allowances for war veterans by adopting changes to the Law on War Veterans and the Law on the Pension Fund, which led to some protests. In terms of adopting legislation, the Republika Srpska executive and legislative authorities operated with relative efficiency compared to other levels of government.

38. On 19 April, the Republika Srpska government took a welcome step when it passed a draft law that would abolish the Republika Srpska Law on Population, Household and Apartment Census 2011, which foresaw a separate Republika Srpska entity census. According to the Republika Srpska government, the Law has to be annulled owing to the recently passed Bosnia and Herzegovina Law on Census.

Srebrenica

39. The electoral system for the October 2012 municipal elections in Srebrenica has again become an issue in the run-up to the elections and has been the subject of discussions among several political parties. The Bosniak-dominated parties have argued that the specificities of Srebrenica and the events of 1995 justify an extension of the previous election arrangements for Srebrenica, whereby all those who lived in Srebrenica in 1991, regardless of where they live today, would be able to vote in the Srebrenica local elections. Serb parties oppose special rules for Srebrenica elections and have received support from the highest levels in the Republika Srpska. I have encouraged both sides to find a mutually acceptable solution that will contribute to reconciliation, while taking into account the genocide that occurred there.

40. On 27 February, at a thematic session dedicated to the issues of refugees and displaced persons, the Federation of Bosnia and Herzegovina House of Representatives voted for an initiative related to Srebrenica that called upon "public institutions responsible for implementing elections in Bosnia and Herzegovina [and] all subjects of the international community, especially the Office of the High Representative, to enact a decision on implementing local elections in Srebrenica for 2012 and future years according to the model and solutions applied in Srebrenica in 2008 until the complete implementation of annex 7 to the Dayton Peace Agreement and a permanent and quality systemic solution".

41. I remain concerned that senior Republika Srpska officials continue to dispute that genocide was committed in Srebrenica in 1995, as confirmed by the International Court of Justice and the International Tribunal for the Former Yugoslavia.[12]

[12] "The verdict on genocide in Srebrenica was politically motivated, rather than based on facts and solid proof." Republika Srpska President in an interview with Banja Luka-based *Glas Srpske*, 7 January 2012.

Federation of Bosnia and Herzegovina

42. The Federation executive and legislative authorities continued to meet regularly during the reporting period. The Federation Parliament adopted 10 laws during the current mandate. These included the 2011 and 2012 entity budgets, as well as laws on the execution of the budget.

Federation of Bosnia and Herzegovina Constitutional Court judges not yet confirmed

43. The Federation of Bosnia and Herzegovina Constitutional Court still lacks three of its nine judges. As a result, the Vital Interest Panel of the Federation Constitutional Court has been incapacitated for over three years. This state of affairs affects the protection of constituent peoples in the Federation. The High Judicial and Prosecutorial Council adopted its final proposal on the list of qualified candidates on 23 September 2011, and the Federation of Bosnia and Herzegovina President signed the nomination for the three judges on 29 March. Despite disagreement by one of the two Vice-Presidents as to the candidates proposed, the President sent his decision on nomination to the Federation of Bosnia and Herzegovina House of Peoples for approval.

Tensions rising in Mostar as the May deadline for the announcement of elections approaches

44. In response to a challenge by the Croat Caucus in the Bosnia and Herzegovina House of Peoples, the Bosnia and Herzegovina Constitutional Court ruled on 26 September 2010 that certain provisions of the Bosnia and Herzegovina Election Law pertaining to the Mostar electoral system were unconstitutional. The Court's ruling addressed two areas: (a) the large differences in the number of voters required to elect councillors to the City Council among Mostar's six city areas; and (b) the discriminatory treatment of voters in Mostar's central zone who, unlike voters elsewhere in Mostar, only elect councillors from a citywide list, not from a geographical voting district.[13] The Constitutional Court gave the Bosnia and Herzegovina Parliamentary Assembly six months to correct the relevant provisions. After the deadline passed without action, the Constitutional Court issued a supplementary ruling on 18 January 2012 repealing the provisions of the Election Law that it had previously deemed unconstitutional. As a result of these deletions, the Election Law currently only provides for the election of 17 councillors in citywide elections, whereas the Mostar City statute foresees 35 councillors. Because the provisions regulating the election of Mostar City councillors are incomplete, it is disputable whether the Bosnia and Herzegovina Central Election Commission will

[13] The Bosnia and Herzegovina Constitutional Court found that the difference between the weight of votes in the city areas, whose electoral rolls vary from 8,000 to 30,000 voters, could not be justified. Moreover, the Constitutional Court determined that it was discriminatory that voters in the central zone did not hold the same rights as residents of the city areas to vote for their own councillors. The Constitutional Court called for the Bosnia and Herzegovina Parliamentary Assembly to amend the unconstitutional provisions of the Bosnia and Herzegovina Election Law to address these issues within six months of the 16 June 2011 publication of the Court's decision in the Bosnia and Herzegovina Official Gazette. The Constitutional Court also requested that the Mostar City Council inform it of steps taken to bring the Mostar City statute in line with the Bosnia and Herzegovina Constitution within three months of publication of the Parliamentary Assembly's amendments.

be able to call elections for Mostar when it announces local elections throughout the country.

45. At the time of writing, tensions in Mostar have risen as the date of the official announcement of elections, expected in early May, approaches. The situation in Mostar is increasingly volatile, with rising tension manifesting itself in escalating rhetoric, including threats to boycott elections, a deadlocked City Council, boycotts of ceremonial events by councillors and one shooting incident.

46. My staff and I have been engaged extensively with the local parties to encourage them to agree to a solution implementing the Court's rulings. A first meeting between most political parties represented in the Mostar City Council to discuss implementing the Court's rulings was finally held on 2 April and another took place on 16 April. However, there has so far not been any breakthrough. I will continue to be engaged so as to encourage the parties to find a solution that is in line with the ruling of the Bosnia and Herzegovina Constitutional Court in order to ensure that elections in Mostar are held in a timely manner.

Banking reforms meet International Monetary Fund disapproval

47. On 7 March, the Federation of Bosnia and Herzegovina Parliament adopted amendments to the Law on Banking Agency of the Federation of Bosnia and Herzegovina despite objections from the International Monetary Fund (IMF). The IMF Mission Chief for Bosnia and Herzegovina wrote to the Federation Prime Minister and the Federation Finance Minister to warn that the proposed amendments were contrary to best international practices and would directly threaten the independence of the Federation Banking Agency.

Federation of Bosnia and Herzegovina President pushes internal boundary changes

48. In interviews on 20 October and 13 November, Federation of Bosnia and Herzegovina President Zivko Budimir elaborated on his proposal for a new Brcko-like district in Posavina, which would include Brcko District itself and several nearby municipalities that were split between jurisdictions by the Dayton Peace Agreement.

Croat Federal Unit/third entity calls

49. Calls from Bosnia and Herzegovina Croat officials for a Croat Federal Unit (or third entity) were less frequent during the reporting period, although not completely absent.[14]

[14] "I am certain that the Croatian entity will be formed sooner or later. I do not know whether I will live long enough to see it. … Today the Croat policy expects the solution through one Federal unit that will — as I would prefer — have its seat in Mostar, and I think that it can only contribute to the stability of the European Bosnia and Herzegovina. It does not matter when it will happen, but the sooner we get rid of those burdens the more normal position we shall have in our belief that the more numerous people, only due to the fact of being more numerous, cannot destroy the other people." Speaker of the Bosnia and Herzegovina House of Peoples quoted in Nezavisne Novine on 12 November.

III. Entrenching the rule of law

50. Many issues concerning the rule of law have been discussed within the Structured Dialogue on Justice launched under the auspices of the European Union. I welcome the fact that this forum will provide domestic politicians with the possibility to discuss their concerns about the judiciary in Bosnia and Herzegovina. I will continue to follow developments in that field to ensure that the institutions provided for under the Constitution and established in order to enable Bosnia and Herzegovina to carry out its constitutional responsibilities are not undermined.

National justice sector reform strategy

51. The implementation of the justice sector reform strategy in Bosnia and Herzegovina for 2008-2012 still suffers from a lack of political will. The enforcement of the action plan for the implementation of the strategy is monitored by civil society, which frequently reports on a lack of dedication at the political level. This could result in increasing differences in laws and justice systems at the State, entity and cantonal levels, as well as in Brcko District.

52. At the seventh Ministerial Conference, held on 28 February 2012, a conclusion was adopted to undertake preliminary activities to revise the existing strategy. The Ministerial Conference concluded that the Bosnia and Herzegovina Ministry of Justice needs to strengthen its capacities for planning and coordination of donor aid if it wishes to revise the strategy. Revision seems practical, bearing in mind that certain activities from the strategy are included in discussions within the Structured Dialogue.

War crimes prosecution strategy

53. During the reporting period, the Steering Board for the Implementation of the National War Crimes Strategy continued to meet on a regular basis. The Steering Board is currently working without a quorum, following the resignation of members from the Federation, apparently owing to the absence of fees for their committee work.

54. In November 2011 the Bosnia and Herzegovina Prosecutor's Office fulfilled one of the basic obligations of the strategy, pending since January 2009. The new Acting Chief Prosecutor delivered data on all war crimes cases that the Prosecutor's Office had taken since 1 March 2003.[15] These data were necessary for the Bosnia and Herzegovina Court to be in a position to decide on the transfer of less complex cases to entity courts pursuant to territorial jurisdiction.

55. The overall number of currently open war crimes cases with entity prosecutors' offices is around 600. At present, however, only approximately half of the entity prosecutors' offices have prosecutors specialized in dealing with war crimes, which has raised concerns, especially regarding witness protection and working with vulnerable witnesses.

56. On 17 January, the Prosecutor's Office halted its investigation against certain persons in relation to the Dobrovoljacka Street case, determining that "the actions of

[15] This is the date on which the new Criminal Code of Bosnia and Herzegovina, together with the Criminal Procedural Code of Bosnia and Herzegovina, entered into force.

the suspects did not contain elements of criminal conduct". This decision was generally expected,[16] but resulted in increased criticism from the Republika Srpska on the work of the Prosecutor's Office and Court of Bosnia and Herzegovina, culminating in the request by the Republika Srpska National Assembly that delegates in the Bosnia and Herzegovina Parliamentary Assembly from the Republika Srpska propose legislation repealing the Law on the Bosnia and Herzegovina Court and the Law on the Bosnia and Herzegovina Prosecutor's Office.

57. International prosecutors and judges again came in for heavy criticism during the reporting period, with the Republika Srpska strongly opposing their presence in the State judiciary. Their presence in the State Court and Prosecutor's Office is regulated until the end of 2012 and many individual mandates have already expired. The current pressure on both institutions highlights the fact that they continue to need firm international support.

Public security and law enforcement

58. On 29 November 2011, the Sarajevo Cantonal Assembly rejected a new Sarajevo Canton Law on Internal Affairs that could have created undue political influence over the police. On 26 October 2011, I advised against any legislation that would allow improper political influence over the police. On 5 April, the Sarajevo Canton government adopted a controversial Book of Rules on Internal Organization of the Ministry of Internal Affairs. On 14 March, my Office wrote to the Sarajevo Canton authorities and raised questions about the legality of the rulebook. The Sarajevo Canton Assembly Collegium and the Sarajevo Canton Police Union have expressed concern over the rulebook and have initiated legal action.

59. On 24 January, the SDP-led Federation government adopted a new Federation of Bosnia and Herzegovina Law on Internal Affairs and on 29 February, the Federation of Bosnia and Herzegovina House of Representatives passed the same law in the first reading. My Office expressed concern that the law might allow for improper political influence over the police and called for a more transparent and consultative process of making the law. The law was not adopted in the Federation Parliament and negotiations are now under way to seek compromise solutions during an upcoming public debate phase.

Non-certification of police officers

60. In response to concerns raised by my Office on 30 January, I am pleased to report that the Republika Srpska Ministry of Interior adopted amendments to the Rulebook on the Procedure of Employment of Police Officials to demonstrate continued compliance with the April 2007 letter on persons denied certification by the United Nations International Police Task Force transmitted by the President of the United Nations Security Council.

[16] This case was analysed under the Rules of the Road Unit within the International Tribunal for the Former Yugoslavia and dismissed. It was also examined by a court of the United Kingdom of Great Britain and Northern Ireland, which rejected extradition proceedings in the case as politically motivated, as well as by an Austrian court, which also rejected an extradition request.

IV. Cooperation with the International Tribunal for the Former Yugoslavia

61. During the reporting period, cooperation with the International Tribunal for the Former Yugoslavia was satisfactory. A positive development came on 21 January, when Radovan Stankovic was arrested in Foca by the Republika Srpska authorities. Stankovic was indicted by the International Tribunal for the Former Yugoslavia for crimes against humanity and war crimes, including rape, committed in Foca in 1992. He was transferred by the Tribunal to Bosnia and Herzegovina in September 2005, where he was convicted and sentenced by the Bosnia and Herzegovina Court to a 20-year sentence in 2007. Stankovic escaped from Foca prison in May 2007.

62. In meetings held in The Hague in February, both the President of the International Tribunal for the Former Yugoslavia and its Chief Prosecutor expressed their concerns to me about the ongoing challenges to the Court and Bosnia and Herzegovina Prosecutor's Office. The strong support of the international community for the Bosnia and Herzegovina judicial institutions is still deemed necessary.

V. Reforming the economy

Economic indicators

63. According to the Directorate for Economic Planning of the Bosnia and Herzegovina Council of Ministers, the Bosnia and Herzegovina economy did not record significant economic growth in 2011. Estimated real growth of 1.5 to 2 per cent represents a modest increase compared to the 2010 real growth rate of 1 per cent, but it is still far below pre-recession rates of 5 per cent. The Directorate noted a gradual economic deterioration in Bosnia and Herzegovina towards the end of 2011, resulting in large part from the financial crisis in the European Union, while available data for 2012 also indicate a continued slowdown in the first months of this year.[17]

[17] In the first two months of 2012, exports decreased by 14.6 per cent and imports decreased by 6.5 per cent compared to the same period last year. As a result, the foreign trade deficit of Bosnia and Herzegovina increased by 6.1 per cent. Industrial production in this period also weakened, with a 9.9 per cent decrease (a 5 per cent decrease in the Republika Srpska and a 9.6 per cent decrease in the Federation) over the same period in 2011. The average net salary in Bosnia and Herzegovina in February amounted to KM 818, an increase of 2.5 per cent compared to the same month last year, while average monthly pensions in February were KM 310.31 in the Republika Srpska and KM 352.56 in the Federation. Monthly inflation for February was estimated at 0.7 per cent. Registered unemployment and foreign direct investments remain worrisome. In January 541,374 persons, or 43.6 per cent of the workforce, were registered as unemployed, a 2.8 per cent increase from January 2011. Based on the revised data of the Bosnia and Herzegovina Ministry of Foreign Trade and Economic Relations, the Bosnia and Herzegovina Directorate for Economic Planning reports a decline in foreign direct investment by 42.5 per cent in 2011, a decrease of KM 391.7 million compared to 2010. As to the remainder of 2012, the April 2012 edition of the International Monetary Fund's *World Economic Outlook* forecasts stagnation of the economy of Bosnia and Herzegovina, revising the September 2011 forecasts of the country's economic growth in 2012 from 0.7 per cent to zero. Source of data: Bosnia and Herzegovina Directorate for Economic Planning, Bosnia and Herzegovina Statistics Agency, Entity Pension and Disability Insurance Funds, available from www.imf.org/external/pubs/ft/weo/2012/01/pdf/text.pdf.

64. Ratings agencies sent mixed signals on the credit rating of Bosnia and Herzegovina during the reporting period. Standard & Poor's downgraded the credit rating of Bosnia and Herzegovina on 30 November 2011 from B+ to B, with a negative outlook. Good news followed on 28 March when Standard & Poor's affirmed its B/B long- and short-term foreign and local currency sovereign credit ratings on Bosnia and Herzegovina. At the same time, the country's rating was removed from CreditWatch with negative implications and given a stable outlook. This decision appears to have been prompted mainly by the formation of a new Council of Ministers, the adoption of the 2011 State budget and a global fiscal framework. However, several days later, on 3 April, Moody's downgraded the credit rating of Bosnia and Herzegovina from B2 to B3 and commenced a review for further possible downgrade. Moody's decision was caused by "the deteriorating fiscal position of the general Government, including the emergence of large structural deficits at the subnational level and limited access to external financing; the increased susceptibility of the country's debt-service management to antagonistic political dynamics ...; and poor growth prospects in light of Bosnia and Herzegovina's high unemployment rate, the slowing economic growth of its major trading partners and its limited progress to date on structural economic reforms." Both the Standard & Poor's and Moody's ratings place Bosnia and Herzegovina debt in the so-called "junk" category.

65. On the positive side, the Central Bank of Bosnia and Herzegovina ended 2011 with a net profit of KM 45.93 million, an increase by KM 12.75 million over the previous year. On 12 April, the Central Bank Governing Board adopted the Decision on Allocation of Central Bank Net Profits, based on the Law on the Central Bank of Bosnia and Herzegovina. Pursuant to that decision, KM 27.56 million of the total net profit goes to the budget of Bosnia and Herzegovina institutions and KM 18.37 million remains in the Central Bank general reserves account. On 31 December 2011, Central Bank deposits with foreign banks stood at KM 4.385 billion, while in the previous year they amounted to KM 3.003 billion. Term deposits with foreign banks are placed mainly in Luxembourg (KM 1.911 billion) and France (KM 1.843 billion), but are also placed in Germany, the Netherlands, Switzerland and the United Kingdom of Great Britain and Northern Ireland.

Challenges to the indirect taxation system

66. The Governing Board of the Indirect Taxation Authority met four times in the past six months, of which the 2 March meeting was the first following the appointment of the new Bosnia and Herzegovina Council of Ministers, as well as the first meeting under the chairmanship of the new Bosnia and Herzegovina Minister of Finance and Treasury. The meeting of the Governing Board of the Indirect Taxation Authority was also attended by a new Director of the Authority, appointed by the Council of Ministers on 23 February.

67. The Governing Board agreed on 20 March to indirect tax revenue allocation coefficients for the first quarter of 2012.[18] However, it again failed to agree on rebalancing of indirect tax revenue between the entities for the second half of 2010 and 2011, as the Federation again questioned the accuracy of data showing a major

[18] On the basis of Indirect Taxation Authority data, the agreed coefficients are as follows: 63.07 per cent for the Federation, a decrease from 63.48 per cent, 33.38 per cent for Republika Srpska, an increase from 32.97 per cent, while the Brcko District coefficient remains at 3.55 per cent, in accordance with the 4 May 2007 decisions of the High Representative.

increase in Republika Srpska final consumption during the disputed period and rejected any debt settlement on that basis without further data verification. In response, the Finance Minister of Republika Srpska requested — and the Governing Board of the Indirect Taxation Authority unanimously adopted — two conclusions on this matter: (a) the Governing Board has no capacity to decide on indirect tax revenue rebalancing; and (b) therefore, a new legal solution for indirect tax revenue allocation is to be proposed.

68. The conclusions are problematic insofar as they allow for different interpretations, including those advocating rollback of indirect tax reform. This is evident from the statement by the Finance Minister of Republika Srpska characterizing the existing system of indirect tax revenue allocation from the (State-level) single account as "non-functional" and calling for the creation of separate entity accounts and financing of the State through entity transfers.[19] Dissolving the single account and setting up entity accounts would represent a rollback of a previously agreed reform and a serious challenge to the existing system of indirect taxation. It would make State institutions dependent on entity transfers and raise questions about future financing of the Brcko District.

Challenges to the fiscal sustainability of State institutions

69. On 28 December 2011, as part of an overall political agreement designed to unblock the formation of the Bosnia and Herzegovina Council of Ministers, the leaders of the six main political parties of Bosnia and Herzegovina agreed that the 2011 Law on the Budget of Bosnia and Herzegovina Institutions and International Obligations of Bosnia and Herzegovina would be adopted at the level of budgetary execution in 2011. Following that, a decision on temporary financing would be adopted for the first quarter of 2012, pending adoption of a budget for 2012.

70. In line with the 28 December agreement, the Bosnia and Herzegovina Council of Ministers adopted on 31 December 2011 a Decision on Temporary Financing of Bosnia and Herzegovina Institutions and International Obligations of Bosnia and Herzegovina for the Period January-March 2012, which was published in the Official Gazette of Bosnia and Herzegovina on 10 January, while the Law on the Budget of Bosnia and Herzegovina Institutions and International Obligations of Bosnia and Herzegovina for 2011 was published in the Official Gazette on 14 February. As a result, the country has resumed servicing its international financial obligations and financing State institutions.

71. Nevertheless, implementation of the part of the 28 December agreement relating to the 2011 budget raised a series of concerns, including those directly relevant to the implementation of the Dayton Peace Agreement. The Law on the Budget of Bosnia and Herzegovina Institutions and International Obligations of Bosnia and Herzegovina for 2011 was not adopted in line with annex 4 to the Agreement (the Constitution of Bosnia and Herzegovina), which explicitly requires that the Bosnia and Herzegovina Council of Ministers recommend a budget to the Bosnia and Herzegovina Presidency, which then officially proposes it to the Bosnia and Herzegovina Parliamentary Assembly (articles V.3 (f) and VIII.1). The proposed budget must then be adopted by the Parliamentary Assembly (articles IV.4 (c) and VIII.1). The Law on Budget may only enter into force after its publication in the Official Gazette of Bosnia and Herzegovina (article IV.3 (h)).

[19] Republika Srpska Finance Minister's interview to Banja Luka daily *Glas Srpske* on 22 March.

72. Although clear and unambiguous, these constitutional provisions were not adhered to by the country's key State-level institutions in their effort to implement the political agreement on the 2011 budget. Notwithstanding action taken after the formation of a new Council of Ministers to rectify some of the problems, the Budget of Bosnia and Herzegovina Institutions and International Obligations of Bosnia and Herzegovina for 2011, published in the Official Gazette of 14 February 2012, did not receive the necessary parliamentary approval in accordance with the Constitution, as set forth in annex 4 to the Dayton Peace Agreement. This state of affairs has undermined the constitutional roles of key State institutions and set a potentially problematic precedent by which important acts like the budget for the institutions of Bosnia and Herzegovina can be adopted outside the procedure set forth by the Constitution. In addition, it leaves both the 2011 State budget and, by extrapolation, temporary financing for 2012 open to challenges before the Bosnia and Herzegovina Constitutional Court.

73. Owing to these constitutional irregularities and conflicting legal interpretations about the possibility of continued financing of the institutions and international financial obligations of Bosnia and Herzegovina after 31 December 2011 without a 2011 (and 2012) budget, all 2012 State-level payments were suspended between 1 January and mid-February. This affected not only the financing of State-level institutions, but also the servicing of the country's foreign debt. Consequently, Bosnia and Herzegovina — for the first time since the Dayton Peace Agreement — defaulted on its debt repayment towards a number of international creditors. The payments, however, resumed within the grace period granted by the affected creditors.

74. At the time of writing, Bosnia and Herzegovina has not yet adopted a budget for 2012. Instead, it is operating under temporary financing based on the adopted 2011 budget of KM 1.24 billion, of which KM 905 million is earmarked for financing State-level institutions and the rest for servicing foreign debt. Since State institutions have been on restricted temporary financing since 1 January 2011, their ability to meet their obligations — including those relevant for European Union and NATO integration — has been affected. I fear this could have unwelcome ripple effects for the functionality of all Bosnia and Herzegovina institutions and weaken the State. These effects are likely not only in the event that State institutions continue operating on restricted temporary financing, but also in case the 2012 budget is not adopted at a level allowing for the full functioning of State institutions and the fulfilment of the international obligations of Bosnia and Herzegovina, as called for by the Peace Implementation Council Steering Board on 13 December 2011.

75. While State institutions have now been operating on temporary financing for 16 months, both entity budgets for 2012 are in place. The Republika Srpska budget for 2012 was adopted by the Republika Srpska National Assembly on 28 December 2011, in the amount of KM 1.825 billion, an increase of KM 225 million over the original 2011 budget, while the Federation budget for 2012 was adopted by the Federation Parliament on 11 January 2012, in the amount of KM 1.923 billion, an increase of KM 224 million over the original 2011 budget. Despite the absence of a global fiscal framework, both entities adopted their budgets prior to the expiry of the respective temporary financing period and in amounts exceeding their respective 2011 budget levels, thus directly violating on two counts the Law on Fiscal Council of Bosnia and Herzegovina.

76. Although a global fiscal framework for 2011-2013 was never adopted, the Bosnia and Herzegovina Fiscal Council recently made progress on the global fiscal framework for 2012-2014. On 14 March, the Fiscal Council agreed on the State budget framework and the State's share in indirect tax revenue. These two figures had been the major stumbling blocks in relations between the State and the entities over the past two years. As a result, the 14 March agreement may represent a basis for adopting the global fiscal framework for 2012-2014 in accordance with the Law on the Fiscal Council of Bosnia and Herzegovina.

Electricity Transmission Company of Bosnia and Herzegovina (Transco/Elektroprenos Bosnia and Herzegovina)

77. There are welcome signs that the Republika Srpska authorities and representatives in Transco are now ready to refrain from unilateral action and to work within the framework of this important State-level company. Building on their 30 November 2011 political agreement on several long-standing issues — including the issue of investments in the electricity transmission grid that have not been made since 2007 — the two entity Prime Ministers met in their capacity as Transco shareholders assembly on 3 February 2012 in Banja Luka and affirmed the agreed principles.

78. The outcome of the Transco shareholders assembly session represents a step towards addressing the key issues facing the company. What is now required is that the decisions taken by the assembly are implemented in practice.

VI. Return of refugees and displaced persons

79. In November 2011 the Ministers of Foreign Affairs of Bosnia and Herzegovina, Croatia, Montenegro and Serbia signed a joint declaration committing their Governments to cooperate in a spirit of good faith to protect and promote the rights of refugees, returnees and internally displaced persons to end their displacement and to enable them to live as equal citizens in the four countries. A regional donors conference to find funding for the projects took place in Sarajevo on 24 April. The main focus was on refugees. However, the Bosnia and Herzegovina Government also used the conference as an opportunity to present the remaining needs outlined in the revised Bosnia and Herzegovina strategy for the implementation of annex 7 to the General Framework Agreement for Peace, with a focus on access to basic rights essential for durable solutions for internally displaced persons and returnees.

80. The Office of the High Representative, the Organization for Security and Cooperation in Europe, the Office of the United Nations High Commissioner for Refugees and the Council of Europe are concerned about a worrying development that has appeared in the realm of property law implementation. In several instances, returnees have been forced to sell their pre-war homes or take out large loans in order to satisfy compensation claims of temporary occupants for alleged expenses incurred during the period of temporary occupancy. The Bosnia and Herzegovina Ombudsman has reported on such instances in both entities, where the courts appear to have misapplied relevant provisions of the property repossession laws. Investigations are ongoing on the nature and scope of this problem, as well as its potential to undo progress on the return of refugees and displaced persons.

VII. Media development

81. Political influence over public media — especially television — in both entities continues to be problematic. In addition, there has been no progress implementing the public broadcasting legislation adopted in January 2006. On the contrary, during the reporting period, officials from Republika Srpska called for the abolishment of the Bosnia and Herzegovina public broadcaster and party leaders from the Federation have called for a parliamentary review of the Public Broadcasting Service and for amendments to the Law on Communications that would make the Bosnia and Herzegovina Parliamentary Assembly directly responsible for the appointment of the media regulator. The leaders of the six-party parliamentary majority have included this post among those posts that should be distributed by them among the constituent peoples.

82. Against this increasingly politicized background, the three public broadcasters constituting the system continue to disagree on the system's structure, thereby delaying the establishment of the Public Broadcasting Corporation, crucial for developments such as the transition to digital broadcasting. The Bosnia and Herzegovina Parliamentary Assembly has still not appointed new governors for the Public Broadcasting System, even though the mandates of several current governors have expired. The Communications Regulatory Agency is still functioning with an acting Director-General and a Council whose mandate has expired, affecting the Agency's credibility and its operations.

VIII. Defence reform

83. The destruction — or rather the lack of destruction — of surplus weapons and ammunition in Bosnia and Herzegovina gained more political prominence during the reporting period. In the early autumn of last year, at the request of the Bosnia and Herzegovina Presidency, the then Bosnia and Herzegovina Minister of Defence submitted reports regarding information on the alleged disappearance of explosives from the Bosnia and Herzegovina Armed Forces. The Minister was tasked to carry out additional inquiries into discrepant data regarding missing assets from a commercial company during its disposal process, on behalf of the Ministry of Defence, of surplus weapons, ammunition and explosives.

84. On 10 November, the Bosnia and Herzegovina House of Representatives endorsed a conclusion of the Bosnia and Herzegovina Joint Parliamentary Committee on Defence and Security proposing that both houses of the Bosnia and Herzegovina Parliamentary Assembly form an investigative committee. The committee was given a three-month deadline to investigate the entire process of the destruction of weapons, ammunition and explosives, and to check the legality of the process from 2006 onward. At the time of writing, the committee has met four times and has yet to submit its findings.

85. Likewise, the Commission for the Implementation of the Procedure for the Disposal of Surplus Movable Defence Property of the Bosnia and Herzegovina Ministry of Defence continued to meet but achieved little progress. Since its establishment in early 2010, the Commission's task has been to decide which ammunition should be sold, donated or destroyed and how ammunition could be sold or offered for tender.

86. On 20 March, about 1,600 former members of the Bosnia and Herzegovina Armed Forces started a protest in front of the Bosnia and Herzegovina Institutions building owing to non-payment of their pension entitlements. The entitlements stem from the 2010 Amendments to the Law on Service in the Armed Forces of Bosnia and Herzegovina (adopted against the advice of the Ministry of Defence and the Ministry of Finance and Treasury of Bosnia and Herzegovina) allowing for early retirement of soldiers who had reached the statutory retirement age for their rank. For the period 2010-2012, the number of persons eligible for early retirement under the Amendments is estimated to be 1,600 and their average age is about 40. Many of the claimants are beneficiaries of the NATO Perspektiva programme, which to date has apparently been their sole retirement benefit.

87. Non-payment of the pension entitlements is due to the failure to budget the Amendments in 2010 (as they were adopted after the 2010 budget was adopted), in 2011 (as the State was on temporary financing based on the 2010 budget) and in 2012 (as the 2011 budget is based on the 2011 temporary financing execution and a 2012 budget is not yet in place). Consequently, the amount that must be secured in the 2012 State budget to cover pension payments owed for the period 2010-2012 has reached almost KM 30 million.

IX. Intelligence reform

88. On 28 October 2011, an Islamic radical from Serbia, Mevlid Jasarevic, fired dozens of bullets towards the Embassy of the United States of America in Sarajevo and wounded a police officer. Mr. Jasarevic was subsequently arrested and charged with an act of terrorism. Police authorities were criticized for their late reaction and the perceived poor coordination among the relevant security actors.

89. On 26 March, Joint Commission for Defence and Security of the Bosnia and Herzegovina Parliamentary Assembly met to discuss the incident and debate the formal report on the matter of the Bosnia and Herzegovina Ministry of Security. At the meeting, the Director of the Bosnia and Herzegovina Intelligence and Security Agency (OSA), Almir Dzuvo, said that in order to prevent similar attacks in future the country as a whole needed to mobilize and address the issue of radical religious indoctrination. Mr. Dzuvo also called for granting OSA the right to detain and interrogate suspects in order to increase the efficiency of the Agency. The Commission failed to formulate any conclusions but decided to convene again.

X. European Union military force

90. The European Union military operation in Bosnia and Herzegovina (EUFOR) continued to provide a military force of some 1,200 personnel. Its headquarters and peace-enforcement capability remained based in the Sarajevo area. Liaison and observation teams continued to be present in many parts of the country. EUFOR also continued to work closely with the Armed Forces of Bosnia and Herzegovina.

91. EUFOR played a central role in support of Bosnia and Herzegovina's own efforts to maintain a safe and secure environment. This, in turn, assisted my Office and other international organizations to fulfil their respective mandates. As such, EUFOR continued to serve as an important factor of stability in the country.

92. On 3 April, owing in part to challenges to EUFOR force generation attempts, the States members of the European Union agreed to reduce the size of its military mission in Bosnia and Herzegovina to approximately 600 personnel. The new EUFOR reconfiguration is expected to be finalized by September.

93. In an effort to contribute to maintain a safe and secure environment in Bosnia and Herzegovina, some States members of the European Union have announced that they would allocate reserve forces to EUFOR from December 2012 onward. The troops will be kept as reserves in the respective member States, ready to deploy at short notice to the region if required.

94. I consider it important for EUFOR to retain an executive mandate to provide critical reassurance to citizens.

XI. European Union Police Mission

95. The European Union Police Mission continued to provide technical assistance in the area of rule of law, supporting the fight against organized crime and corruption. In December 2011 the Council of the European Union extended the Mission's mandate until 30 June 2012 to prepare for the transition from the Mission to European Union pre-accession assistance and a strengthened European Union Special Representative in Bosnia and Herzegovina.

XII. Future of the Office of the High Representative

96. The Peace Implementation Council Steering Board met at the level of political directors on 12 and 13 December 2011. It once again expressed its concern about the political situation in the country, the failure to appoint a State Government, as well as the ongoing failure to address the remaining objectives and conditions for the closure of the Office of the High Representative. The next meeting of the Steering Board is scheduled to be held on 22 and 23 May.

97. Following the departure of 26 highly valuable staff members to the Office of the European Union Special Representative in August, my Office has continued to cut overhead costs as a response to the global fiscal crisis and the impact felt by our contributing States. These savings will be reflected in our proposed budget for 2012-2013.

XIII. Reporting schedule

98. In keeping with the proposals of my predecessor to submit regular reports for onward transmission to the Security Council, as required by Council resolution 1031 (1995), I herewith present my seventh regular report. Should the Secretary-General or any member of the Council require information at any other time, I would be pleased to provide an additional written update. The next regular report to the Secretary-General is scheduled for November 2012.